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Summary record of the 2528th meeting
Held at Headquarters, New York, on Friday, 28 March 2008, at 3 p.m.

Chairperson: Ms. Palm (Vice-Chairperson)

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08-28692 (E)

In the absence of Mr. Rivas Posada (Chairperson), Ms. Palm, Vice-Chairperson, took the Chair.

The meeting was called to order at 3.10 p.m.

Working methods (*continued*)

A strategic approach to public relations, including relations with the media (CCPR/C/92/CRP.2)

1. **Mr. Shearer** said that he had made adjustments to recommendations 3, 4 and 5 contained in his paper (CCPR/C/CRP.2) in the light of comments from members at the 2519th meeting. Regarding recommendation 3, the majority of members were of the view that it was not feasible to hear all reports from States parties in the Palais des Nations in Geneva, just those that would attract the most attention. He suggested the following revised version of that recommendation: "*The consideration of selected State party reports likely to attract wide interest at the Geneva sessions should be held in the Palais des Nations in order to allow a greater number of the public to attend and for the convenience of the Press Corps present there.*" For recommendation 4, he proposed the following new wording: "*Webcasting, podcasting and streaming of proceedings should be permitted of open meetings of the Committee. A report should be requested of OHCHR on the feasibility and logistics of the implementation of this recommendation.*"

2. Doubts had been expressed about the usefulness of recommendation 5; it could be deleted, or replaced with the following language: "*Filming of the Committee's public sessions should be permitted.*"

3. **Mr. Lallah** said that it would be useful to include in the formal recommendations the information that cassette recordings of meetings were available to non-governmental organizations (NGOs) and Governments.

4. **Mr. Shearer** said that a sentence could be added to the recommendation explaining that cassette recordings of the proceeding would be made available on request.

5. **Mr. Gillibert** (Secretary of the Committee) recalled that Committee practice had been to provide recordings to Permanent Missions, Governments and NGOs. However, at the October 2007 session, members had expressed opposition to providing recordings to NGOs, and the practice had been suspended.

6. **Mr. Amor** said that he was not opposed to filming the presentation by the State party, but would be uncomfortable with filming the Committee's entire proceedings, as the material, like the cassette recordings, could be used selectively.

7. He was of the view that the Committee should continue to expand its practice of moving meetings likely to attract a great deal of interest to the Palais des Nations, while avoiding the pitfall of setting up two categories of States parties. The management problems for the Secretariat caused by the change of venue would not be insurmountable.

8. **Ms. Chanet** said that the Committee should reverse its current practice by holding meetings for consideration of reports by States parties in the Palais des Nations as a rule and holding meetings for States parties with smaller delegations in the Palais Wilson on an exceptional basis.

9. **Sir Nigel Rodley** said that he supported the suggestion to reverse the venues for Committee meetings. He understood the misgivings expressed regarding filming of the Committee's proceedings, and suggested that it should be done on an experimental basis and evaluated after a period of time.

10. **Mr. Rivas Posada** said that he believed that all public meetings of the Committee should be held in the Palais Wilson. He saw no advantage in moving to the Palais des Nations because of the difficulties for the Secretariat, not to mention the issues regarding security, transportation and access for the Committee and the members of the press and public.

11. **Mr. Lallah** said that he understood the concerns expressed about selective use of recordings and films of meetings, but in his view, the Committee's work must be made public in order to make it more widely known.

12. **Mr. O'Flaherty** said that he would not oppose a change of venue in special cases, but such cases were actually rare. He opposed the change of venue as a regular practice and was concerned at the effect it would have on the harmonization of the work of the treaty bodies.

The role of individual members

13. **Mr. Shearer** drew attention to paragraph 10 of CCPR/C/92/CRP.2, which reflected the concerns expressed by members at the session in October 2007. Recommendation 6 did not give members carte blanche to speak on behalf of the Committee, but they could express their views in their individual capacities.

14. **Mr. Glele Ahanhanzo** said that he was concerned at the lack of general knowledge about the work of the Committee, at least in his region. It would be helpful in raising its profile to send groups of two or three members on missions to visit States parties and represent the Committee, which would give its work more visibility on the ground.

15. **Mr. O'Flaherty** said that it had been his understanding from previous discussions of the issue that members considered the requirement that the identities of country task force members and rapporteurs must be kept confidential somewhat of an anachronism, and the discussion of recommendation 6 presented an opportunity to address it. He proposed a recommendation 6 bis that would read "*With a view to enhancing its public information arrangements, the Committee agrees that in future, the identity of the members of country task forces and rapporteurs will be considered to be non-confidential*".

16. **Mr. Shearer** said that recommendation 6 was intended to allow country task force members to reveal their identities indirectly as a result of speaking to the press after meetings. He was still uncomfortable, however, with revealing their identities before the consideration of a report because of the possibility of pressure being placed on them by States parties. Recommendations 6 and 7 were linked, as it should not just be the Bureau speaking to the media, but task force members in their individual capacities.

17. **Sir Nigel Rodley** said that he supported the additional language suggested by Mr. O'Flaherty. He was uncomfortable with the remaining secrecy and suggested that a study could be done on other similar committees with a policy of openness regarding members' identities.

18. **Mr. Kälin** supported the proposal to obtain more information on the experiences of other committees. Making the names of country task force members and rapporteurs available a week to ten days before the dialogue took place would minimize the possibility of pressure, and was preferable to total secrecy. The fact that the Committee did not know the composition of delegations reduced the risk of relationships developing between Committee members and heads of delegation.

19. **Mr. Khalil** said that he feared that publicizing the names of members of the task force well in advance could lead to Governments initiating unwelcome contacts with Committee members; he preferred that the identities of the task force members should be disclosed to States parties only on request once the session drew near. The task force was intended to simplify the Committee's method of work — every member had the right to ask questions in turn.

20. **Ms. Motoc** echoed the call for more transparency, and agreed that delegations attending the session often already knew the identities of the special rapporteurs and task force members. Making that information available two to three days before the session provided a limited transparency, while avoiding undue pressure from States parties.

21. **Mr. O'Flaherty** said that one additional advantage to publicity was that it contributed to the Committee's accountability by giving the world a better sense of its actions. He agreed with the proposal for a study of the practice in the other treaty bodies which should precede any action taken on the issue. He was not in favour of disclosing the identity of members of country task forces to delegations a few days in advance, because disclosure should be made either in the public domain, or not at all.

22. **Mr. Rivas Posada** said that he did not see how the issue of anonymity of members of the task force and special rapporteurs was related to the subject being discussed, which was the strategy of Committee relations with the media. He doubted whether States parties already knew the identity of task force members and special rapporteurs, but if that was indeed the case, then there was no need to find a solution. He called for confidentiality until the session in which the report was to be presented, at which point the names could be made public and available to all, including the State party.

23. **Ms. Chanet** said that the Committee should not act hastily, as there were a number of possible pitfalls. Transparency should either be total or not an option at all. She wondered what should be done if a task force member, who had been on the list, was not able to

attend. She also feared that some States parties might be more or less inclined to answer a given question because of the identity of the task force member asking it, not its importance. When she had presided over the Committee in 2006, the fact that the identities of task force members was an open secret but not officially announced in advance had afforded the Committee greater flexibility with regard to the participation of any given member, making last-minute replacements possible if necessary.

24. **Mr. Glele Ahanhanzo** said that the pitfalls should not be exaggerated. The risks involved with disclosure were currently less significant, because all printed information was widely circulated in the United Nations system. He was in favour of transparency.

25. **Mr. Shearer** said that he recognized that the discussion did not relate directly to the issue of media relations, as members of country report task forces were only identified indirectly if they had been given special status to speak in press conferences and follow-up activities such as concluding observations. Nevertheless, it had been useful in relation to the Committee's other work. There was apparent agreement among members that once the report had been heard, the information on task force members became public.

26. **Mr. O'Flaherty** suggested that recommendation 7 could be reformulated to read: "*Individual members, in particular country rapporteurs and task force members, are encouraged to speak at press conferences during or at the conclusion of the Committee's sessions.*"

27. **Mr. Shearer** said that recommendation 7 referred to the period after the sessions, by which point the identities of task force members and rapporteurs would already be known. Thus there was no possible prejudice in such disclosure.

28. **Ms. Chanet** proposed that the Committee should ask for information on other treaty bodies' experiences at the Inter-Committee Meeting or at the Annual Meeting of Chairpersons of the Human Rights Treaty Bodies instead of requesting a theoretical Secretariat study on the issue.

29. **Mr. Lallah** wondered what States parties would think of those who remained quiet, if informed in advance who would be addressing them. He recalled that task forces had been established as a working method to limit interventions that had usually lasted two to three days in the past.

Press conferences

30. **Mr. Shearer** said that recommendation 8 proposed that the Committee's traditional final press conference should be held no later than on the day preceding the final day of the session, which was usually a Friday, an inconvenient day for the press. The Committee's concluding observations were usually available to the press only on the morning of the press conference, as States parties had to be given at least 24 hours to consider concluding observations and prepare for questions before the press had access to them. The result was that the press had to obtain a copy of concluding observations at the press conference and read them and prepare questions hastily. That was a poor way of handling relations with the media, and he suggested that the Committee should reorganize its internal work so as to draft its concluding observations more quickly and circulate them earlier, in order to allow the press enough time to prepare questions.

31. **The Chairperson** wondered whether a line could be included in the recommendation stating that the press should receive a copy of concluding observations in a timely fashion.

32. **Mr. Amor** said that the media impact of the Committee's work depended on its internal organization. If the Committee could carry out its consideration of State party reports and draft concluding observations — the two main priorities in its work — within the first two weeks of the session, communication would improve. Furthermore, ongoing press briefings during the sessions could be particularly useful. The final press conference, if it was to be useful, should be held one or even two days before the last day of the session.

33. **Ms. Chanet** agreed that ongoing press briefings would be useful and should be used to generate press interest in the Committee's work. She strongly endorsed Mr. Shearer's suggestions in recommendation 9 regarding informal lunch meetings with members of the press at the beginning of the session. Press interest would increase if journalists had access to advance information on the States parties involved and questions to be asked during the session.

34. **Ms. Motoc** welcomed the suggestions for innovative methods to generate press interest, which

was currently rather limited, given the importance of the Committee's work.

35. **Mr. Shearer**, turning to recommendation 10, said that all information should not be held back until the final press conference. Instead, press conferences could be held throughout the session. Recommendation 10 facilitated better relations with the press, allowing a Committee member to alert the press when a topic of interest was going to be discussed. To avoid confusion over whether Committee members spoke for themselves or on behalf of the Committee, press releases should be approved by the Chairperson.

36. **Ms. Majodina** said that relations with the media could be seen as part of a larger advocacy role, whereby the Committee could strategically use the publicity given to concluding observations to encourage a particular State party to comply with them. That would impress upon States parties that submission of a report was a means, rather than an end in itself. The media could also assist the Committee in making its work known outside its meeting places. The South African Human Rights Commission, on which she had served, had been successful in using the media strategically to raise awareness of its work.

37. **Mr. Lallah**, with regard to recommendations 8 through 11, said that the media already knew which States parties would attend a given session when it began. However, the Committee should also meet with the press at the start of the session and distribute materials covering the agenda, so that the media could appreciate the seriousness of its work and cover what it found newsworthy. Such a meeting would serve to generate press interest from the beginning of the session, and it posed no problem as the questions were public and States parties even had the opportunity to respond to the questions in advance.

38. **Sir Nigel Rodley** expressed concern at the fact that the OHCHR website highlighted the work of other treaty bodies, but not that of the Committee, even though press releases were issued on a daily basis during its sessions. More clearly needed to be done internally. In that connection, recommendation 10 should be reviewed, since its current formulation suggested that press releases were not issued during Committee sessions. The Committee might also wish to recommend that press releases issued in Geneva should follow the example of those issued in New York and refer to Committee members by name.

39. **Mr. Amor** pointed out that summary records did include the name of each speaker. One way to engage the press, therefore, would be to make those records more readily available. He endorsed the proposal that the Committee should meet with the press at the start of each session.

40. **The Chairperson** welcomed the proposal, but wondered if it could be covered by recommendation 9.

41. **Ms. Chanet** said that the parts of the document relating to press conferences and members' participation therein should be more specific. She was particularly curious to know what was meant by "members with a particular interest in a State party report or individual communication" (para. 10). That said, press conferences on individual States parties would be very valuable and of great interest to the press.

42. **Ms. Motoc** said that the Committee clearly needed to improve the way in which it conveyed its message, particularly in view of the introduction of the Human Rights Council's universal periodic review mechanism. Not only were its press releases rarely read; they also often reflected Committee members' comments inaccurately. The Committee's conclusions and recommendations, meanwhile, tended to be very long and technical and therefore difficult to read.

43. To address those problems, the Committee might wish to consider issuing its conclusions and recommendations in a shorter, more reader-friendly format, for example in a two- or three-paragraph summary at the end of each report. Such an approach would ensure that the Committee's position was clear and make it easier for interested parties to compare the recommendations of the Human Rights Council, on the one hand, and those of the Committee, on the other.

44. **Mr. Shearer** said that the Committee's comments had been taken on board and would be included, where possible, in the next draft. By way of clarification, he said that paragraph 12 and recommendation 10 should refer not only to press releases, but also to media conferences.

45. **Mr. Johnson Lopez** stressed the importance of transparency and of ensuring that information of interest was made available to the press. The OHCHR website provided a great deal of information about other bodies. It should do the same for the Committee's work.

46. **Mr. Lallah** asked whether NGOs were currently allowed to attend Committee press conferences. If not, he wondered whether they might be encouraged to share their knowledge of issues being discussed by the Committee with the press. Furthermore, he endorsed the proposal to incorporate the Committee's conclusions and recommendations into a summary at the end of each report.

47. **Mr. Gillibert** (Secretary of the Committee) said that Committee press conferences in both Geneva and New York were open only to the press and Member States.

48. **Ms. Majodina** wondered whether the Committee was permitted to build relations with media outside the United Nations. In New York, for example, there were many media outlets.

49. **Ms. Chanet** said that nothing prevented the Committee from contacting the media directly. Because of the heightened security in recent years, however, the Organization's own public information services would have to support, if not facilitate, such a course of action by the Committee. Therefore, the success of such endeavours would largely depend on the Committee's relationship with those services.

50. **Mr. Shearer** drew attention to recommendation 11, which had been prompted by comments made by Ms. Chanet during earlier discussions. He would be interested to hear the Committee's views on the subject, in particular whether they preferred to appoint one rapporteur for public information or a committee of three.

51. **Ms. Motoc** expressed a preference for having a committee of three, each belonging to a different language group, so as to ensure multilingualism and maximize the skills available.

52. **Mr. Amor** questioned the logic of appointing three rapporteurs for public information. In his view, the Chairperson should assume that role, since he or she already acted as spokesperson and already enjoyed the membership's endorsement.

53. **Mr. O'Flaherty** supported the idea of having just one rapporteur for public information, since one properly mandated person would be much more effective than a committee of three. He disagreed, however, that the Chairperson, with all his or her existing responsibilities, was best suited to play that role. It would be far better to have one person dedicated solely to that task. Furthermore, the person chosen would not necessarily act as spokesperson, but rather, would be responsible for such areas as overseeing public affairs issues, encouraging the Chairperson to issue statements when appropriate and galvanizing colleagues in order to ensure that the Committee's message was disseminated throughout the world. In his view, being appointed rapporteur for public information should have the same gravity as being appointed member of the Bureau or Rapporteur.

54. **Ms. Chanet** said that it would be hard to reach agreement on the recommendation. For a start, how could one person relay information in all languages? And, if the rapporteur for public information was not expected to be a spokesperson, it was not clear what that role was expected to be. The issue was clearly a delicate one.

55. **Sir Nigel Rodley** said that even if the rapporteur for public information was not officially the Committee's spokesperson, the press would invariably end up considering him or her to be so. Furthermore, if one person was appointed, it would certainly be preferable for him or her to speak more than one language, since dubbed statements were considerably less satisfactory than original ones. It was also important to recognize the multicultural and multilingual aspects of the issue.

56. While he shared the views of Mr. Shearer and Mr. O'Flaherty, on balance — and in view of the difficult nature of the task — he wondered whether it might be helpful to take the troika route, at least at the beginning. To avoid any confusion as to who was ultimately responsible, the troika could even appoint one of their number as coordinator.

57. **Mr. Rivas Posada**, after seeking reassurance that there were no plans to apply the issue retroactively, said that the role of rapporteur for public information was fairly specialized and required certain skills. The ability to speak more than one language was just one of them. In his view, therefore, the Committee should conduct a more in-depth study of the responsibilities involved before taking any decisions on the matter.

58. **Mr. O'Flaherty** said that he would be happy for the Committee to take the troika route if that was the only way to reach agreement on the issue. The troika could come back to the Committee with its own terms of reference.

59. **The Chairperson** said that the Committee had thus concluded its discussion of document CCPR/C/92/CRP.2, which would be reviewed again at the Committee's next session in July. She was sure that all the comments made would be taken into account.

Declarations of inadmissibility, by the Special Rapporteur on new communications, under article 2 of the Optional Protocol

60. **The Chairperson** invited the Committee to consider the question of whether or not the Special Rapporteur on new communications should be able to declare unsubstantiated communications inadmissible under article 2 of the Optional Protocol.

61. **Mr. Rivas Posada** said that he did not wish to start an in-depth discussion or expect a conclusion to be reached at the current meeting; rather, he wished to highlight a number of concerns that had been raised at the Working Group on Communications regarding the use, by the Special Rapporteur on new communications, of the long-standing practice of declaring unsubstantiated communications inadmissible under article 2 of the Optional Protocol.

62. The first problem was that article 2 of the Optional Protocol clearly stated that individuals who claimed that any of their rights enumerated in the Covenant had been violated might submit a written communication to the Committee for consideration. Nowhere did it say, or even suggest, that only substantiated communications would be considered.

63. The other, more serious, problem was that the non-transmittal to the States parties concerned of communications declared inadmissible under article 2 might constitute a violation of article 4, paragraph 1, of the Optional Protocol, pursuant to which the Committee must bring any communications submitted to it to the attention of the State Party alleged to be violating any provision of the Covenant. The only communications that were exempt from that procedure were those declared inadmissible under article 3 of the Optional Protocol, in other words, communications which were anonymous, or which the Committee considered to be an abuse of the right of submission or incompatible with the provisions of the Covenant. He could not imagine a scenario where communications declared inadmissible under article 2 of the Optional Protocol could be said to fall into one of those categories.

64. As the Special Rapporteur on new communications had explained on a previous occasion, the practice of declaring unsubstantiated communications inadmissible under article 2 of the Optional Protocol had proven very useful in terms of improving the efficiency of the Committee's work, since it enabled such communications to be discarded at the outset. The Special Rapporteur had also explained that he had consulted the Committee on the subject beforehand and that the Committee had authorized the non-transmittal to States parties of communications that were manifestly inadmissible on the grounds of non-substantiation.

65. **Mr. Kälin**, speaking in his capacity as Special Rapporteur on new communications, said that the Optional Protocol clearly stated that the Committee was to bring any communications submitted to it under the Protocol to the attention of the State party alleged to be violating any provision of the Covenant and that the State party then had six months to submit its comments. Article 4 allowed for exceptions as provided for in article 3, in the case of a communication that was anonymous, considered to be an abuse of the right of submission or incompatible with the provisions of the Covenant. The Covenant and its Optional Protocol were living instruments that had developed through interpretation, and communications that did not have sufficient substantiation were declared inadmissible, although there was no direct basis for that in the text of the Optional Protocol. Article 2 could be understood to mean that communications with sufficient substantiation could be submitted for consideration, although even that was a stretch of interpretation. The Committee would also have to consider whether an unsubstantiated communication was a case of non-registration or a case of inadmissibility.

66. He recalled that at a meeting of the States parties to the Covenant in 2006, he had referred to the new working methods adopted by the Committee in 2005 which included the possibility of the Special Rapporteur on new communications making a direct recommendation to the Committee that certain communications be declared inadmissible without first being transmitted to the State party concerned, which avoided requesting the latter to submit observations on a communication that was manifestly inadmissible. The vast majority of inadmissibility recommendations that had been presented directly in that way had been

adopted in plenary session, which should help to discourage complainants from submitting manifestly inadmissible communications. He also recalled that none of the 51 States parties present at that meeting had raised any objection to the above-mentioned method of work and that one representative had made a positive comment on the new procedure.

67. Since that time, the Committee had continued with the same method. The few cases of lack of substantiation had mostly involved another inadmissibility factor, such as the author not being a victim or the issue not being covered by the Covenant. Committee members had already commented in 2006 that the method should be made part of the Committee's rules of procedure. Perhaps the Committee should first experiment and then decide how to amend the rules of procedure. He was not defending past practice: if the Committee preferred a literal interpretation of article 4 of the Optional Protocol, then the Special Rapporteur would produce inadmissibility drafts only on the grounds mentioned in article 4. If the Committee decided to continue with the current, more efficient, method, then it would need to incorporate that decision into the rules of procedure. The Committee could also decide to change the rules after consulting with States parties at their next meeting in October 2008. The Committee could submit a draft amendment to the rules of procedure to clarify that States parties relinquished their right to make comments on manifestly inadmissible communications. The present debate should be seen in the context of efforts to deal with the backlog, as despite the progress made in 2005-2006, the number of cases to be carried over to the next session had increased again and over 400 cases were pending.

68. **Mr. Shearer** said that he agreed with Mr. Kälin, but shared Mr. Rivas Posada's concern as to the legal basis of the Committee's actions and whether they were in breach of the provisions of the Optional Protocol. Article 2 could be interpreted as giving individuals the right to submit communications to the Committee and the rules of procedure should therefore be amended to reflect current practice. A reference to the office and role of the Special Rapporteur on new communications would also need to be included.

69. In order to ensure compliance with article 4 and the exceptions referred to in article 3, the only way to proceed would be for the Committee to include in the rules of procedure a provision that a manifestly unsubstantiated communication was an abuse of the right of submission. That might require the approval of States parties.

70. **Ms. Chanet** said that the current practice seemed to bring results and was a realistic approach with little risk: if a communication was found to be inadmissible for lack of substantiation, the author could always ask the Committee to reconsider its decision. The legal basis was uncertain in view of the very clear provisions of articles 3 and 4 and the Committee should therefore amend the rules of procedure, which would surely be acceptable to States parties, but not necessarily to authors. Perhaps a General Comment on the Optional Protocol would be called for.

71. Another solution was offered by reading the last phrase of article 4, paragraph 1, in conjunction with article 2. The fact that the Committee was not obliged to submit a communication to a State party unless some provision of the Covenant had been violated could be interpreted as applying in a case where the author was not a victim because the communication was not sufficiently substantiated. The author of a poorly presented communication could sometimes find the elements needed to improve the communication in the light of the response of the State party. That was where the rapid and useful procedure of leaving it to the discretion of the Special Rapporteur could prove dangerous in less capable hands than those of the current incumbent. In a poorly presented case, some aspects might be overlooked.

72. **Mr. Iwasawa** supported the current practice as an efficient way to deal with the backlog. So far, the Committee had considered insufficient substantiation as an issue under article 2, but it might be possible to deal with it under article 3, because of the language at the beginning of article 4. It might be better to consult the States parties again in October 2008 to explain the current practice. If they did not object, the Committee was on safer ground.

73. **Mr. O'Flaherty** said that he also supported the current practice. He would not wish to resort to the legal device of associating the current practice of the Special Rapporteur with a finding of abuse of the right of submission. That was a category that the Committee had used very conservatively and did not seem appropriate to the case. The issue of lack of substantiation was best dealt with under article 2,

which provided the authority for the Special Rapporteur's current practice.

74. **Mr. Shearer** said that the fact that insufficient substantiation was an issue under article 2 did not resolve the problem, because article 4 indicated that the only exceptions were contained in article 3. The only relevant category of exception related to the right of submission, so the solution might be for the Committee to distinguish between "insufficient substantiation" under article 2 and "manifest lack of substantiation", which could be linked to abuse of the right of submission under article 3.

75. In response to Mr. Iwasawa, he said that the issue could certainly be referred to the States parties in October 2008, but their agreement would not be sufficient as legal cover for the Committee's current practice. States parties might support it, but individuals might not. The Special Rapporteur clearly had broad power to decide whether a communication was manifestly unsubstantiated, and perhaps there should be some oversight. Cases not referred to the Committee could perhaps be listed and summarized for review by the Working Group. The current practice should be included in the rules of procedure. Perhaps a new rule could be drafted that would also reflect the existence and role of the Special Rapporteur on new communications.

76. **Mr. Rivas Posada** said that although he appreciated the enhanced efficiency of the Committee's work, it was not clear that the argument for efficiency could erase the doubts as to the legal foundation of current practice. The argument of acceptance by States parties was also dubious, as it involved a legal interpretation of the Covenant and the Optional Protocol that seemed to favour those States directly. The interpretation of article 3 would have to be extended, as a change in the rules of procedure did not alter the fact that there was a clear mandate in the Optional Protocol. Yet it would be unfortunate to get rid of a procedure that had facilitated the work of the Committee.

77. **Ms. Chanet** said that despite all the work on the concept of "manifestly unsubstantiated", those words were not included in the text of the Covenant. The Committee needed to amend the rules of procedure, but could leave the decisions in the hands of the Special Rapporteur on new communications. Although there had not been any complaints from authors as yet, the Committee had to take precautions. It would be possible to retain the flexibility of the procedure by attaching it legally to the Optional Protocol. An additional requirement concerning substantiation would be needed so that the decision was not entirely left to the Special Rapporteur.

78. **Mr. Kälin** said that the Special Rapporteur did not act alone. Exactly the same procedure was followed for unsubstantiated communications as for all other cases, except that they were not transmitted to the State party. The inadmissibility drafts were submitted to the Working Group, and if it considered that a communication was not inadmissible, it then reverted to the normal procedure and submitted the communication to the State party for comment. The Special Rapporteur's drafts should be prepared immediately after registration, and in the worst case any concern about substantiation would only cause a delay of a few weeks or months. There was no reason to delegate more power to the Special Rapporteur, as the text of the Covenant and the Optional Protocol made it clear that the Committee reached its decisions as a body.

79. **The Chairperson** said that the Committee would return to discussion of the present item in July, when the Committee should reach a decision whether to continue with the current practice with regard to the Special Rapporteur's inadmissibility drafts.

The meeting rose at 6 p.m.